

RABAN & RABAN

— LLC —

Attorneys at Law

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11710 Long Beach Blvd.

Haven Beach, NJ 08008

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April 11, 2022

Via Hand Delivery and Email Lubsecretary@beachhaven-nj.gov

LUB Secretary

Beach Haven Land Use Board

300 Engleside Ave.

Beach Haven, NJ 08008

Re: Tucker's Real Estate, LLC Amended Site Plan and Variance
Block 129, Lots 4 & 5, Borough of Beach Haven
101 S. West Avenue

Dear Lauren:

Enclosed please find the following with regard to the above referenced matter:

- (x) 5 copies of Land Use Development Application
- (x) 5 copies of Proposed Exterior Covered Dining Area Plans prepared by Architetra, P.C..
- (x) 1 copy of Affidavit of Ownership
- (x) 1 Proposed Public Notice
- (x) Application Fee Variance check # 2541 Amount \$450.00
- (x) Attorney Escrow check # 2542 Amount \$1,500.00
- (x) Please consent and/or approve for public hearing on May 2, 2022 at 7:00 p.m.

If you have any questions, please do not hesitate to contact me. Thank you for your courtesies and attention to this matter.

Very truly yours,


JAMES S. RABAN

LUB Secretary
April 11, 2022
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JSR/dh

Encl.

Cc: Peter Palladino (via email)
James Brzozowski, P.E., P.P. (via email)
Frank Little, Jr., P.E., P.P. (via email)
Robert Shinn, Esq. (via email)

LAND USE DEVELOPMENT APPLICATION

BOROUGH OF BEACH HAVEN
BAY AVENUE AND ENGLSIDE AVENUE
BEACH HAVEN, NEW JERSEY 08008
(609) 492-0111

TO BE COMPLETED BY BOROUGH STAFF ONLY

Date Filed _____ Docket No. _____
Application Fees _____ Escrow Deposit _____
Scheduled for: Review of Completeness _____ Hearing _____

1. SUBJECT PROPERTY - TO BE COMPLETED BY APPLICANT

Location: 101 S. West Ave.
Tax Map Page _____ Block 129 Lots 4 & 5
Dimensions Frontage: 221.92 ft. (West Ave.) Depth 210 ft. (irregular) Total Area: 32,363 sq. ft.

Zoning District: RCB Multifamily/Bay District and RB Two-Family Residential District

2. APPLICANT

Name: Tucker's Real Estate, LLC

Address: 4401 Long Beach Blvd., Brant Beach, NJ 08008

Telephone Number: 609-492-2300

Work _____ Fax: _____
Applicant is a Corporation _____ Partnership _____ Individual _____
Other (Please Specify): Limited Liability Company ☒ X
Social Security Number / Federal ID Number _____

3. DISCLOSURE STATEMENT

Pursuant to N.J.S. 40:55D-48.1, the names and address of all persons owning 10% of the stock in a corporate application or 10% interest in any partnership applicant must be disclosed. In accordance with N.J.S. 40:55D-48.2 that disclosure requirement applies to any corporation or partnership which owns more than 10% interest in the applicant followed up the chain of ownership until the names and addresses of the non-corporate stockholders and partners exceeding the 10% ownership criterion have been disclosed (attach pages as necessary to fully comply.)

Name: Mardy Grims Interest: 60%

Address: 4401 Long Beach Blvd., Brant Beach, NJ 08008

Name: Dave Smith Interest: 30 %

Address: 4401 Long Beach Blvd., Brant Beach, NJ 08008

APPLICANT IS RESPONSIBLE FOR PAYMENT OF ALL PROFESSIONAL REVIEW FEES, INCLUDING THE ENGINEERING AND ATTORNEY. ALL ENGINEERING AND LEGAL FEES MUST BE PAID BEFORE CONSTRUCTION OR ZONING PERMITS CAN BE ISSUED.

4. If owner (s) is other than the applicant, provide the following information on the Owner (s):

Owner's Name: Same as Applicant

Address:

Telephone Number: Home: Work: Local:

Relationship of the applicant to the property in question:

Owner Lessee Purchaser Under Contract : Other

5. PROPERTY INFORMATION:

Deed restrictions, covenants, easements, rights of way, association by-laws, or other dedication existing or proposed on the property:

Yes No X Proposed

Note: All Deed Restrictions, Covenants, Easements, Rights of Ways, Association By-Laws, or other dedications existing and proposed must be submitted for review.

Site Plan and / or conditional use applicants:

Proposed for: Expanded Area Alteration X

Expansion of Structure X Change of Use Sign

Other (please specify):

Has this property been the subject of any prior application (s) to the Planning Board or Zoning Board of Adjustment? Yes X No .

If so, please attach the date (s), the relief sought, the disposition of the case and a copy of the resolution (s).

On December 2, 1991, the Planning Board of the Borough of Beach Haven approved an application for preliminary and final minor site plan approval. A copy of the resolution is attached hereto.

On March 5, 2018, the Beach Haven Land Use Board granted amended site plan and variance approval to permit the construction of a second floor deck partially over the existing structure together with a new structure over the outside first floor dining area. A copy of the resolution is attached hereto.

Is the subject property located on:

A County Road: Yes No X ; A State Road: Yes No X ;
within 200 feet of a municipal boundary: Yes No X

Present use of the premises: Restaurant/Bar; Single-Family Dwelling

6. Applicant's Attorney JAMES S. RABAN

Address 11710 Long Beach Blvd., Haven Beach, NJ 08008

Telephone Number (609) 492 - 0533 Fax Number (609) 492 - 0464

7. Applicant's Engineer/Surveyor: Horn, Tyson & Yoder, Inc.

Address: 8510 Long Beach Blvd., Long Beach Township, NJ 08008

Telephone Number: 609-492-5050 Fax Number: 609-492-4163

8. Applicant's Planning Consultant: Same as Engineer

Address

Telephone Number Fax Number

9. Applicant's Architect: Architetra, P.C.

Address: 1500 E. Lancaster Ave., Suite 103, Paoli, PA 19301

Number: 610-993-9111 Fax Number: 610-993-0510

Telephone

10. List any other Expert who will submit a report or who will testify for the Applicant: (Attach additional sheets as may be necessary): N/A

Name

Field of Expertise

Address

Telephone Number

Fax Number

11. APPLICATION REPRESENTS A REQUEST FOR THE FOLLOWING:

SUBDIVISION:

Minor Subdivision Approval

Subdivision Approval (Preliminary)

Subdivision Approval (Final)

Number of Lots to be created

Number of proposed Dwelling
(if applicable)

Area and Dimensions of each Proposed Lot:

SITE PLAN:

Minor Site Plan Approval

Preliminary Site Plan Approval [Phases (if applicable)]

Final Site Plan Approval [Phases (if applicable)]

X Amendment or Revision to an Approved Site Plan

Area to be disturbed (square feet) : 2,040 square feet

Total number of proposed dwelling units: N/A

INFORMAL REVIEW

APPEAL DECISION OF AN ADMINISTRATIVE OFFICER [N.J.S. 40:55d-70A]

MAP OR ORDINANCE INTERPRETATION OR SPECIAL QUESTION [N.J.S. 40:55D-70B]

X VARIANCE RELIEF (HARDSHIP) [N.J.S. 40:55D-70C(1)]

X VARIANCE RELIEF (SUBSTANTIAL BENEFIT) [N.J.S. 40:55D-70C(2)]

X VARIANCE RELIEF (CONDITIONAL USE) [N.J.S. 40:55D-70D]

CONDITIONAL USE APPROVAL [N.J.S. 40:55D-67]

DIRECT ISSUANCE OF A PERMIT FOR A STRUCTURE IN BED OF A MAPPED STREET, PUBLIC DRAINAGE WAY, OR FLOOD CONTROL BASIN [N.J.S. 40:55D-34]

DIRECT ISSUANCE OF A PERMIT FOR A LOT LACKING STREET FRONTAGE [N.J.S. 40:55D-35]

12. Section (s) of Ordinance from which a variance is requested:

Pursuant to Section 212-15.1(B), the bar/restaurant use is a permitted conditional use in the RCB Multifamily/Bay District. However, one of the conditions required is that a minimum planted buffer of 20 feet shall be maintained between such use and adjoining residential uses. The site lacks the required buffer and, therefore, a variance is required.

Section 212-27(B)(3): Maximum permitted impervious coverage is 75%. The existing and proposed impervious coverage exceed 75%.

This property is split-zoned. The entire existing and proposed structure are located within the RCB Multifamily/Bay District. The parking lot is located within the RB Two-Family Residential District. The bar/restaurant use is permitted in the RCB Zone as a conditional use. However, the existing and proposed parking lot use in the RB Zone is not a permitted use in the RB Zone. To the extent a special reasons variance is required for the parking lot, such variance is requested.

13. Waivers Requested of development Standards and/or Submission Requirements: (attach additional pages as needed)

A waiver from normal site plan detail is requested because the site is fully developed.

14. ATTACH A COPY OF THE PROPOSED NOTICE TO APPEAR IN THE OFFICIAL NEWSPAPER OF THE MUNICIPALITY AND TO BE MAILED TO THE OWNERS OF ALL REAL PROPERTY, AS SHOWN ON THE CURRENT TAX DUPLICATE, LOCATED WITHIN THE STATE AND WITHIN 200 FEET IN ALL DIRECTIONS OF THE PROPERTY WHICH IS THE SUBJECT OF THIS APPLICATION. THE NOTICE MUST SPECIFY THE SECTIONS OF THE ORDINANCE FROM WHICH RELIEF IS SOUGHT, IF APPLICABLE.

The publication and the service on the affected owners must be accomplished at least 10 days prior to the date scheduled by the Administrative Officer for the hearing.

15. An Affidavit of Service on all property owners and a Proof of Publications must be filed before the Application will be complete and the hearing can proceed.

Explain in detail the exact nature of the Application and the changes to be made at the premises, including the proposed use of the premises: (Attach pages as needed)

The property is currently developed with a bar/restaurant, with a second-story single-family dwelling unit. The Applicant is seeking approval to permit a covered outdoor dining area, approximately 27 feet by 65 feet in area, to the south of the existing structure, in between the existing structure and the parking lot. Seating and an outdoor bar are proposed in the outdoor dining area.

17. Is public Sanitary Sewer available? Yes
18. Does the application propose any lighting? Normal commercial lighting
19. Have any proposed new lots been reviewed with the Tax Assessor to determine appropriate Lot and Block number? N/A
20. Are any Off-Tract Improvements required or proposed? No
21. Is the Subdivision to be filed by Deed or Plat? N/A
22. What form of security does the applicant propose to provide as performance and maintenance guarantees? Cash or letter of credit
23. OTHER APPROVALS WHICH MAY BE REQUIRED AND DATE PLANS SUBMITTED:

	YES	NO	DATE PLANS SUBMITTED
LOCAL FIRE PREVENTION		X	
BEACH HAVEN WATER & SEWER DEPT.		X	
BEACH HAVEN PUBLIC WORKS DEPT.		X	
LONG BEACH ISLAND HEALTH DEPT.		X	
OCEAN COUNTY PLANNING BOARD		X	
OCEAN COUNTY SOIL CONSERVATION DEPT.		X	
N.J. DEPT. ENVIRONMENTAL PROTECTION		X	
SANITARY SEWER CONNECTION PERMIT		X	
SEWER EXTENSION PERMIT		X	
WATERFRONT DEVELOPMENT PERMIT		X	
WETLANDS PERMIT		X	
TIDAL WETLANDS PERMIT		X	
F.E.M.A.		X	
N.J. DEPT. OF TRANSPORTATION		X	
ATLANTIC ELECTRIC		X	
N.J. NATURAL GAS		X	
OTHER			

24. CERTIFICATION FROM THE TAX COLLECTOR THAT ALL TAXES DUE ON THE SUBJECT PROPERTY HAVE BEEN PAID.
25. LIST OF MAPS, REPORTS AND OTHER MATERIALS ACCOMPANYING THE APPLICATION (attach additional pages as required for complete listing)

THE DOCUMENTATION MUST BE RECEIVED BY THE BOARD SECRETARY AT LEAST TWENTY-ONE (21) DAYS PRIOR TO THE MEETING AT WHICH THE APPLICATION IS TO BE CONSIDERED. A LIST OF THE PROFESSIONAL CONSULTANTS IS ATTACHED TO THE APPLICATION FORM.

<u>Quantity</u>	<u>Description of Item</u>
9 copies	Proposed Exterior Covered Dining Area prepared by Architetra, P.C.

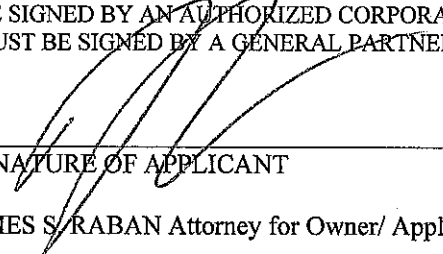
26. THE APPLICANT HEREBY REQUESTS THAT COPIES OF THE REPORTS OF THE PROFESSIONAL STAFF REVIEWING THE APPLICATION PROVIDED TO THE FOLLOWING OF THE APPLICANT'S PROFESSIONALS:

SPECIFY WHICH REPORTS ARE REQUESTED FOR EACH OF THE APPLICANT'S PROFESSIONALS OR WHETHER ALL REPORTS SHOULD BE SUBMITTED TO THE PROFESSIONAL LISTED.

	Applicant's Professional	Reports Requested
<u> x </u>	Attorney	<u>All Reports</u>
<u> x </u>	Engineer	<u>All Reports</u>
<u> x </u>	Architect	<u>All Reports</u>
27.	CHECK LISTS USED	SCHEDULE A SCHEDULE B SCHEDULE C
		YES X YES X YES X
		NO NO NO

CERTIFICATIONS

28. I CERTIFY THAT THE FOREGOING STATEMENTS AND THE MATERIALS SUBMITTED ARE TRUE, AND WAIVE ALL APPLICABLE TIME LIMITS UNTIL THE FIRST PUBLIC HEARING OF THIS APPLICATION. I FURTHER CERTIFY THAT I AM THE INDIVIDUAL APPLICANT OR THAT I AM AN OFFICER OF THE CORPORATE APPLICANT AND THAT I AM AUTHORIZED TO SIGN THE APPLICATION FOR THE CORPORATION OR THAT I AM A GENERAL PARTNER OR THE PARTNERSHIP APPLICANT. (IF THE APPLICANT IS A CORPORATION, THIS MUST BE SIGNED BY AN AUTHORIZED CORPORATE OFFICER, IF THE APPLICANT IS A PARTNERSHIP, THIS MUST BE SIGNED BY A GENERAL PARTNER)



SIGNATURE OF APPLICANT

JAMES S. RABAN Attorney for Owner/ Applicant

29. I UNDERSTAND THAT A SUM, TO BE DETERMINED, WILL BE DEPOSITED IN AN ESCROW ACCOUNT, IN ACCORDANCE WITH THE ORDINANCES OF THE BOROUGH OF BEACH HAVEN. I FURTHER UNDERSTAND THAT THE ESCROW ACCOUNT IS ESTABLISHED TO COVER THE COST OF PROFESSIONAL SERVICES INCLUDING ENGINEERING, PLANNING, LEGAL AND/OR OTHER EXPENSES ASSOCIATED WITH THE REVIEW OF SUBMITTED MATERIALS. SUMS NOT UTILIZED IN THE REVIEW PROCESS SHALL BE RETURNED. IF ADDITIONAL SUMS ARE DEEMED NECESSARY, I UNDERSTAND THAT I WILL BE NOTIFIED OF THE REQUIRED ADDITIONAL AMOUNT AND SHALL ADD THAT SUM TO THE ESCROW ACCOUNT WITHIN FIFTEEN (15) DAYS. I UNDERSTAND THAT I WILL BE RESPONSIBLE FOR PAYING FEES DUE TO THE LAND USE BOARD ATTORNEY AND ENGINEER.

 4/11/22

DATE



SIGNATURE OF OWNER OR APPLICANT

JAMES S. RABAN, Attorney for Owner/Applicant

BOROUGH OF BEACH HAVEN PROFESSIONAL CONSULTANTS

LAND USE BOARD ATTORNEY

Robert G. Shinn, Esquire
Woodland, Mc Coy & Shinn, LLC
2 North Union Street
P.O. Box 134
Manahawkin, NJ 08050

(609) 597-5666
FAX: (609) 597-3832

ENGINEER

Frank J. Little, Jr. P.E., P.P.
Owen, Little & Associates, Inc.
443 Atlantic City Boulevard
Beachwood, NJ 08722

(732) 244-1090
FAX (732) 341-3412

BOROUGH ATTORNEY

Bruce W. Padula, Esquire
5 Ravine Drive P.O. Box 533
Matawan, New Jersey 07747

(732) 583-7474
FAX: (973) 845-6700

R E S O L U T I O N

BOROUGH OF BEACH HAVEN
PLANNING BOARD

NUMBER: _____

DATE OF ADOPTION: 12/2/91

WHEREAS, application having been made by ASH HAVEN, INC. to the Planning Board of the Borough of Beach Haven, Ocean County, New Jersey, for preliminary and final minor site plan approval, so as to permit, construction of additions and renovations to the existing bar and restaurant known as the Port O'Call, which is located in the M.C. MARINE Commercial Zone, located at 1107 West Avenue, Beach Haven, New Jersey and listed on Block 129, Lots 4,5,6,7,8,9 and 10 of the Tax map of the Borough of Beach Haven, New Jersey.

WHEREAS, the Board has granted a waiver from Site Plan Detail because the site is fully developed.

WHEREAS, the Engineer to the Board, Frank J. Little, Jr., P.E., P.P. of Owen, Little & Associates having reviewed the applicant's plans prepared by, Nelke/Deneka dated 10/06/86 along with architectural by John Whitten Davis, AIA dated 09/16/91, prepared and submitted, a factual report to the Board dated 09/30/91. The Board having considered the Applicant's Plans and the Engineer's report, made the following findings of fact:

1. The proposed construction is within the M.C. Marine Commercial Zone. The existing structure and lot will require VARIANCES from the following:
 - A. Off-Street Loading Zone - Ordinance 119-13G requires three (3), whereas applicant has only provided one (1).
 - B. Buffer - Ordinance 119-13E (5) requires a minimum of ten (10) feet to be provided along any common property line with a residential use or district. The applicant has not provided the ten (10) feet of buffer.

WHEREAS, the President of Ash Haven, Inc. Mr. John Frango testified, as well as, applicant's expert Mr. John Whitten Davis.

WHEREAS, the Board having considered the testimony of all the witnesses and neighbors and having reviewed all plans and materials submitted, finds:

The premises is located in the M.C. Marine Commercial Zone.

The Applicant needs a variance from Loading Zone and Buffer requirements.

WHEREAS, the Board having made the aforementioned findings of fact and applying these findings of fact, in light of all the evidence submitted, to the applicable law, finds as follows:

That the renovations and additions would be an enhancement to the overall zoning scheme of the Borough and;

The renovations and additions proposed would not substantially impair the intent and purpose of the zone plan;

The relief can be granted without substantial detriment to the public good;

The benefits of the deviations substantially outweigh any detriment to the community.

NOW, THEREFORE BE IT RESOLVED BY THE PLANNING BOARD OF THE BOROUGH OF BEACH HAVEN, OCEAN COUNTY, STATE OF NEW JERSEY, AS FOLLOWS:

WHEREAS, the application of ASH HAVEN, INC. to the Planning Board of the Borough of Beach Haven, Ocean County, New Jersey, for preliminary and final minor site plan approval, so as to permit, construction of additions and renovations to the existing bar and restaurant known as the Port O'Call, which is located in the M.C. MARINE Commercial Zone, located at 1107 West Avenue, Beach Haven, New Jersey and listed on Block 129, Lots 4, 5, 6, 7, 8, 9 and 10 of the Tax map of the Borough of Beach Haven, New Jersey. Is hereby approved and the necessary variances as set forth in paragraph (1), subparagraphs A, and B of this Resolution are hereby granted, subject to the following conditions:

The applicants and/or owners shall maintain the sidewalk and curb that presently exist along Engleside Avenue and West Avenue,

if same becomes deteriorated it shall be removed and replaced by applicants and/or owners at their expense, pursuant to Borough standards.

If the applicants and/or owners decide to erect a sign, same shall be in compliance with Zoning Ordinance 119-15 of the Borough of Beach Haven.

The applicants, owners or their agents or assigns shall erect and maintain fencing in lieu of the required buffer.

The applicants, owners, their agents or assigns shall comply with all Federal, State and County, building and fire codes.

The applicants, owners, their agents or assigns shall comply with the Code of the Borough of Beach Haven.

The only variances that have been granted are specifically enumerated in Paragraph (1) subparagraphs A and B.

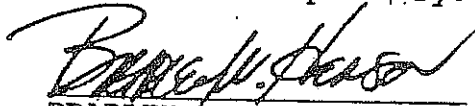
Applicant must obtain the appropriate liquor license modifications from the Governing Body of the Borough of Beach Haven.


ANNE SLOANE, SECRETARY
PLANNING BOARD

C E R T I F C A T I O N

THIS WILL CERTIFY THAT THE ABOVE IS A TRUE COPY OF A RESOLUTION ADOPTED BY THE PLANNING BOARD OF THE BOROUGH OF BEACH HAVEN AT A MEETING HELD ON THE 2nd DAY OF December, 1991.

Resolution Prepared By:


BRADLEY W. HENSON
Attorney for The Board

Privetera, Henson & Wilson
1520 Long Beach Boulevard
Ship Bottom, New Jersey.
(609) 494-1300

**RESOLUTION OF MEMORIALIZATION OF THE
LAND USE BOARD OF THE BOROUGH OF BEACH HAVEN
COUNTY OF OCEAN AND STATE OF NEW JERSEY
DOCKET NO. 2017:26**

WHEREAS, Tucker's Real Estate, LLC has made application to the Land Use Board of the Borough of Beach Haven for site plan and variance approval to permit the construction of a second floor deck partially over the existing structure together with a new structure over the outside first floor dining area; containing 2,040 square feet on the westerly side of the building facing the bay, for drinks and appetizers; together with an access stairway located on the southerly side of the building adjacent to the curb cut access, as reflected on the plans at premises known and designated as Lots 4-10 Block 129 commonly referenced as Lot 5 Block 129; 101 S. West Avenue known as Tucker's Tavern, in the Borough of Beach Haven, County of Ocean and State of New Jersey; and

WHEREAS, the application was considered by the Land Use Board at a public hearing conducted on February 5, 2018. The applicant was represented by James S. Raban, Esq. The application dated December 12, 2017 was entered into evidence as Exhibit A-1; the plan prepared by Horn, Tyson & Yoder, Inc. titled "Map Showing Survey of Lot 5 Block 129 Tax Map Sheet #6 Borough of Beach Haven, Ocean County, New Jersey" dated November 15, 2017, under signature and seal of Hayes A. Hewitt, PLS, was entered into evidence as Exhibit A-2; an architectural site plan and drawing of the existing footprint of the property and the proposed deck titled "Proposed Roof Deck for Tuckers Tavern 101 S. West Avenue Beach Haven, NJ Ocean County Lots 4-10, Block 129; Architectural Site Plan" dated January 23, 2018 with a revision date of December 29, 2017; prepared by Architerra, P.C., under signature and seal of Joseph Michael Lombardi on January 25, 2018 drawing SP1 was entered into evidence as Exhibit A-3; architectural elevations and floor plans of proposed deck titled "Proposed Roof Deck for Tuckers Tavern 101 S. West Avenue Beach Haven, NJ Ocean County Lots 4-10, Block 129; Deck Furniture Plans & Elevations" dated January 23, 2018; prepared by Architerra, P.C., under signature and seal of Joseph Michael Lombardi on January 25, 2018 drawing A1.0 was entered into evidence as Exhibit A-4. The review letter from

Owen, Little & Associates, Inc., under signature of Frank J. Little, Jr., dated January 30, 2018, Second Review, was entered into evidence as Exhibit B-1. Testimony was offered by Todd Kentzel, applicants' architects who qualified as a registered architect in New Jersey and Pennsylvania; and Robert B. Roth, Jr. who qualified as a licensed architect and professional planner in New Jersey; and Peter Paladino, applicant's director of operations. Public comment was offered by Thomas Lynch, the owner of 531 Engleside Avenue; Beach Haven NJ; Susan Vogel, the owner of 130 West Avenue; a unit owner and member of the governing Board of Amberview Condominiums; a fourteen unit condominium development; located on the Bay and across West Avenue from applicant's property; Christine Little the owner of 100 S. West Avenue, Unit 3; a part of West Winds Townhouses Condominiums, a four unit condominium development directly across West Avenue from the subject development; Lisa Mack a manager of Applicant; David White, the owner of 402 Amber Street; William Burris; owner of 100 N. West Avenue; Deborah Whitcraft the proprietor and curator of the Maritime History Museum; Barbara Cona a resident in the Marine Commercial District; Danielle Buonocore, an eleven year employee of applicant; and Michael Peler. Susan Vogel presented a document titled Amberview Condominium Association Statement of Position Tucker's Application for Zoning Ordinance which was entered into evidence as Exhibit O-1; and

WHEREAS, the Land Use Board after considering the Application, documentation entered into evidence, testimony of the witnesses, argument of counsel and public comment has made the following factual findings:

1. All jurisdictional requirements have been met.
2. The property is owned by applicant and currently is fully developed as a restaurant and bar; the property has two (2) parking lots; and a ten (10) room apartment on the second story predominantly used to house employees.
3. The property is located in the RCB and RB Zone, the uses permitted within the Marine Commercial Zone are permitted; however the existing restaurant bar use is permitted as a conditional use. The site is completely

developed; and has for been used for a bar restaurant use for at least fifty (50) years lease past.

4. The property was substantially renovated and enlarged in 1991 when approved for site plan and variances were granted; which permitted the installation of a six (6) foot fence along the easterly property line in lieu of a ten (10) foot buffer, which then was required. That variance was granted to enable applicant to maintain parking spaces to the east of the building.
5. Applicant currently proposes to create a second story open deck for drink and appetizer service. There are not any changes proposed to the building footprint or bulk conditions. The existing impervious coverage is 95.43% and will not be affected by the development.
6. The Board adopts the contents of the January 30, 2018 letter from Frank J. Little, Jr. entered into evidence as Exhibit B-1, as if set forth herein at length.
7. The buffer requirements under current ordinances impose a twenty (20) foot landscaped buffer. Applicant is seeking variance relief to permit the retention of the six (6') foot fence. The proposed development is located on the opposite side of the building, and notwithstanding the lack of a buffer, there will not be any impact upon the easterly side of the building.
8. The stairs as proposed will be accommodated as a result of the shifting of the existing curbing approximately 5.5 feet to the south; whereupon the stairs will not impose upon the drive aisle and create an unsafe condition.
9. The additional 78 people to be accommodated by the proposed addition will not create a nonconforming parking situation.
10. The deck will be shielded from the roof mounted utilities and apartment. Applicant proposes to install a tempered glass rail system. Applicant initially indicated that the lighting will comport with Borough Ordinances; and the railing height shall not exceed 42 inches. The upstairs porch will remain open without any roof covering.
11. Applicant further offered testimony that there will not be any live music on the deck; all noise to be shielded from residential properties and

applicant will conform to all Borough ordinances. The only coverage anticipated will be table and stand umbrellas.

12. The deck will accommodate 78 patrons. The architect testified that all proposed circulation will conform to safety and fire codes.
13. The Board is aware that there are residential developments to the North of the project on Engleside Avenue; and there are residential developments to the west across from West Avenue on the Bay.
14. Applicant initially proposed hours of operation of the new deck area from noon until closing.
15. Testimony from Susan Vogel and Christine Little, reflected that on Thursday through Sunday during the season there is entertainment at the establishment, whereupon at closing there is noise intrusion upon their properties; they also testified that the dumpsters are used for loading recyclables at 2:00 AM. Thomas Lynch testified that at closing there is excessive noise as people depart the establishment.
16. In response to the public comment, applicant has requested permission to raise the glass railings to 48 inches in an attempt to reduce noise. Applicant has further agreed to limit the hours of operation for the second floor deck system from noon until 10:00PM except on Friday and Saturday when the hours of operation will be from noon until 11:00PM. All exterior lighting at the deck shall be extinguished at the aforementioned closing time.
17. Applicant further agreed to replace the fences at the property, in accordance with instructions from the Board engineer. They also will not have trash and recycling hauling in the evening or early morning hours, to avoid infringing upon the neighbors peace and good order; and

WHEREAS, the Land Use Board of the Borough of Beach Haven has determined that the relief requested by the applicant, Tucker's Real Estate, LLC for site plan and variance approval to permit the construction of a second floor deck partially over the existing structure together with a new structure over the outside first floor dining area;

containing 2,040 square feet on the westerly side of the building facing the bay, for drinks and appetizers; together with an access stairway located on the southerly side of the building adjacent to the curb cut access, as reflected on the plans at premises known and designated as Lots 4 -10 Block 129 commonly referenced as Lot 5 Block 129; 101 S. West Avenue known as Tucker's Tavern, in the Borough of Beach Haven, County of Ocean and State of New Jersey can be granted without substantial detriment to the public good and without impairing the intent and purposes of the zone plan and zoning ordinances of the Borough of Beach Haven, the site is suitable for the use, as a restaurant tavern use has existed at the site for more than fifty (50) years; in 1991 the property was granted site plan and variance relief to construct the building as it currently exists; and the use is compatible to the area. The proposed deck will not have any impact upon the lack of a buffer on the easterly side of the building; parking at that area is more advantageous than maintaining the buffer; the facility has provided landscaping and fencing for many years which appear to suffice; in lieu of the required buffer. The decking will be constructed within Borough height requirements; it shall remain open and uncovered, and not encroach on the light or air of adjoining properties. The concerns of the neighbors have been addressed by the applicant; the deck will maintain limited hours which will not extend to closing; applicant will not be using additional lighting past 10 PM during the weekdays and past 11PM on Fridays and Sundays. Applicant has represented that the trash and recycling storage and removal will be adjusted not to interfere with the neighbors during early morning or late evening hours. The congestion at closing will be policed, notwithstanding the restaurant use has existed for many years, and there is a certain amount of noise that will occur; the new deck will not impact that condition.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Beach Haven that the application of Tucker's Real Estate, LLC for site plan and variance approval to permit the construction of a second floor deck partially over the existing structure together with a new structure over the outside first floor dining area; containing 2,040 square feet on the westerly side of the building facing the bay, for drinks and appetizers; together with an access stairway located on the southerly side of the building adjacent to the curb cut access, as reflected on the plans at premises known

and designated as Lots 4 -10 Block 129 commonly referenced as Lot 5 Block 129; 101 S. West Avenue known as Tucker's Tavern, in the Borough of Beach Haven, County of Ocean and State of New Jersey, be and hereby is, conditionally approved.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant's compliance with all terms and conditions of the letter of the Board Engineer, Frank J. Little, Jr., P.E., P.P., and C.M.E., dated January 30, 2018, as entered into evidence as Exhibit B-1.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon applicants submitting amended plans providing for a tempered glass rail height of 48 inches; applicant shall also replace all interior and exterior fences at the property; the plans will reflect the fence replacements and be subject to approval of the Board engineer.

BE IT FURTHER RESOLVED that this approval shall be limited to the following hours of operation, 12:00 Noon to 10:00PM every day but Friday and Saturday when the hours shall be expanded from 12:00 Noon to 11:00PM; at 10:00 PM and 11:00 PM respectively; all patrons shall be removed from the deck; all lights shall also be extinguished at the elevated deck. Applicant shall also discontinue handling exterior trash and recycling during the early morning or evening hours to avoid noise pollution upon the adjoining residential properties.

BE IT FURTHER RESOLVED that there shall not be any live music performance upon the new decks; and all noise levels shall conform to Borough code requirements; the use of the upper decks shall be limited to drinks and appetizers, there shall not be dining without further consent of the Board. The deck will not be covered, and shall remain open; the only coverings may be table umbrellas.

BE IT FURTHER RESOLVED that this approval permits the continuance of the preexisting nonconforming 95.43% impervious coverage, variance relief is granted;

and further approves the variance from the 20 foot buffer on the easterly side of the site; and the continuation of the fence as a satisfactory separation.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon all construction at the property conforming to FEMA requirements and all building, fire and safety Codes.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant obtaining all requisite permits and Applicant complying with all Federal, State and Local rules regulations and statutes and ordinances effecting this development.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon applicant obtaining all outside agency approvals from all agencies having jurisdiction over this development, including, but not limited to, Ocean County Planning Board. Applicant shall also obtain all approvals as may be required from the Borough of Beach Haven and the New Jersey Alcohol Beverage Commission.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant's payment of all taxes and all other applicable assessments, and Applicant satisfying all fees and escrow fees as may be required. Applicant shall also pay and post all inspection fees, performance guarantees and maintenance bonds as may be required, in amounts established by the Borough Engineer, and in such form as required by the Borough Solicitor.

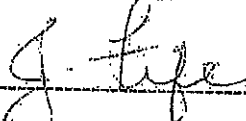
BE IT FURTHER RESOLVED that the Applicant is required to comply with all ordinances of the Borough of Beach Haven, and failure to specify compliance herein shall not be deemed a waiver or recommendation by the Land Use Board with respect to Borough Ordinances, including the Zoning Ordinances.

BE IT FURTHER RESOLVED that this approval is subject to all terms and conditions as set forth herein and all representations applicants' witnesses placed on the

record at the public hearing conducted on February 5, 2018 when this matter was considered.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon applicants complying with any and all technical revisions and submissions as the Borough Engineer may require.

BE IT FURTHER RESOLVED that this approval is subject to and conditioned upon Applicant satisfying all Land Use Development fees as set forth in Chapter 102; Section 102-5 et seq. of the Code of the Borough of Beach Haven.



JACQUELINE FIFE, SECRETARY

--CERTIFICATION--

I, JACQUELINE FIFE, Secretary of the Land Use Board of the Borough of Beach Haven, County of Ocean and State of New Jersey, do certify that the foregoing is a true copy of a Resolution adopted by the Land Use Review Board of the Borough of Beach Haven at a public meeting held on March 5, 2018.



JACQUELINE FIFE, SECRETARY

PUBLIC NOTICE

BOROUGH OF BEACH HAVEN

Public notice is hereby given that Tucker's Real Estate, LLC (the "Applicant") has applied to the Land Use Board of the Borough of Beach Haven, Ocean County, New Jersey for amended site plan and variance approval relative to proposed development on the property designated as Lots 4 and 5 in Block 129 on the Tax Map of the Borough of Beach Haven, located at 101 S. West Avenue. The property is currently developed with a bar/restaurant, with a second-story single-family dwelling unit. The Applicant is seeking approval to permit a covered outdoor dining area, approximately 27 feet by 65 feet in area, to the south of the existing structure, in between the existing structure and the parking lot. Seating and an outdoor bar are proposed in the outdoor dining area. The following variances are requested:

1. Pursuant to Section 212-15.1(B), the bar/restaurant use is a permitted conditional use in the RCB Multifamily/Bay District. However, one of the conditions required is that a minimum planted buffer of 20 feet shall be maintained between such use and adjoining residential uses. The site lacks the required buffer and, therefore, a variance is required.
2. Section 212-27(B)(3): Maximum permitted impervious coverage is 75%. The existing and proposed impervious coverage exceed 75%.
3. This property is split-zoned. The entire existing and proposed structure are located within the RCB Multifamily/Bay District. The parking lot is located within the RB Two-Family Residential District. The bar/restaurant use is permitted in the RCB Zone as a conditional use. However, the existing and proposed parking lot use in the RB Zone is not a permitted use in the RB Zone. To the extent a special reasons variance is required for the parking lot, such variance is requested.

If the Board determines that any additional variances, waivers or exceptions are necessary or appropriate, then such variances, waivers, or exceptions will be requested at the hearing.

A public hearing has been scheduled for May 2, 2022 at 6:00 p.m., at which time any interested persons may appear and have an opportunity to be heard on this application. As a result of the COVID-19 pandemic, the meeting will be conducted remotely via Zoom. To access the virtual hearing, you must join the Zoom meeting. To access the Zoom meeting, you will need access to a computer with internet access and/or dial in through a mobile or land line phone to log into the meeting. The following is the information required to access the meeting:

Join Zoom Meeting

<https://us02web.zoom.us/j/87277492681>

Meeting ID: 872 7749 2681

You will join the meeting and be able to listen and view the evidence shared on the screen at the meeting. Additionally, you will be able to access all documents pertaining to this application and all files for the meeting on the Borough of Beach Haven Website found here <https://beachhaven-nj.gov/government/land-use-board/>

You will be able to participate when the Board Chairwoman opens the meeting to the public for the public participation portion of the meeting at the end of the Applicant's presentation for you to ask questions and or cross examine witnesses and make statements. If you have information or exhibits that you wish to be considered and entered into the record, please email them to the Land Use Board Secretary, at Lubsecretary@beachhaven-nj.gov in advance of the meeting to enable them to be marked for identification.

If you are unable to access the information for the application(s) via computer, or need assistance in logging on or using this technology, you may contact the Land Use Board Secretary, Lauren Caravano, at 609-492-0111 extension 213 or via email at

Lubsecretary@beachhaven-nj.gov. If you wish a particular file to be emailed or mailed to you, you must request that with 72 hours advanced notice. Please also visit the Borough of Beach Haven webpage at <https://beachhaven-nj.gov/government/land-use-board/> for the latest updates regarding future Land Use Board Meetings and any updates regarding this meeting since the publication of this notice.

James S. Raban
Attorney for the Applicant

File # 3491

Long Beach Township Land Use Board

AFFIDAVIT OF OWNERSHIP, CONSENT, AUTHORIZATION,
and NON-COLLUSION

STATE OF New Jersey :

COUNTY OF Ocean :

ss.

I, Tucker's Real Estate, LLC

being duly sworn according to law,

(Print owner(s) name(s))

upon my/our oath depose and say:

1. I/we am/are the only owner(s) of property known as 101 S. West Ave.

(Street Address)

Beach Haven, Ocean County, New Jersey known as :

Block 129

Lot

4 + 5

Block

Lot

Block

Lot

As shown on the Official Tax Maps of the Township of Long Beach.

2. I/we consent to the making of this application and the approval of the plans submitted herewith. I/we further agree to be bound by all representations and commitments made by myself/ourselves or my/our authorized agent. I/we further consent to the inspection of this property in connection with this application as deemed necessary by the members of the Land Use Board and/or other designated officials or representatives.

3. There has been no collusion between me/us and any member of the Township of Long Beach Land Use Board or any officials of the Township of Long Beach with respect to said application.

4. I/we hereby authorize James Raban (Agent), to make application on my/our behalf. I further agree to be bound by all representations, promises and commitments made by my agent.

(Print agent name)

Dated: 1/11/2022

Signature of Owner/Managing Member

Print Name above

Sworn and Subscribed to before me
this 11th day of JANUARY, 2022.

Signature of Owner

Print name above

Notary Public

Commonwealth of Pennsylvania - Notary Seal
Tina M. Bellamy, Notary Public
Delaware County
My commission expires April 15, 2023
Commission number 1260633
Member, Pennsylvania Association of Notaries